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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2016-0099]

RIN 0579-AE45

Importation of Fresh Avocado Fruit from Continental Ecuador into the Continental United States; Reopening of Comment Period

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We are reopening the comment period for a proposed rule to allow the importation of commercial avocados from continental Ecuador into the continental United States after taking a new pest into consideration and including additional phytosanitary measures. We are also notifying the public of the availability of a revised pest risk assessment and revised risk management document associated with this notice. This action will allow interested persons additional time to prepare and submit comments.

DATES: The comment period for the proposed rule published on June 15, 2018 (83 FR 27918-27922) is reopened. We will consider all comments that we receive on or before [Insert date 30 days after publication in the *Federal Register*.]

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to www.regulations.gov. Enter APHIS-2016-0099 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2016-0099, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at regulations.gov or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 851-2352.

SUPPLEMENTARY INFORMATION: On June 15, 2018, the Animal and Plant Health Inspection Service (APHIS) published in the *Federal Register* (83 FR 27918-27922, Docket No. APHIS-2016-0099) a proposed rule¹ to authorize the importation of commercial fresh avocado from continental Ecuador into the continental United States.

The proposed rule was based on a pest risk assessment (PRA) that found four quarantine pests to be candidates for pest risk management. The quarantine pests were the fruit flies *Anastrepha fraterculus* (Wiedemann), *Anastrepha serpentina* (Wiedemann), *Anastrepha striata* (Schiner), and *Ceratitis capitata* (Wiedemann). All avocado varieties except the Hass variety are hosts for these quarantine pests. Consequently, APHIS proposed to allow the importation of avocados from Ecuador into the United States under a systems approach that included phytosanitary measures to safeguard against these pests for all varieties of avocado except the Hass variety.

¹ To view the proposed rule, supporting documents, and comments we received, please follow the directions above for the Federal eRulemaking Portal under ADDRESSES.

During the public comment period, we received information from a commenter that led us to add the avocado seed pest *Stenoma catenifer* to a revised PRA. The revised PRA determined that *Stenoma catenifer* was a candidate for pest risk management for all varieties of avocado imported from continental Ecuador. In light of this change, we revised the risk management document (RMD) to include pest risk management measures for *Stenoma catenifer* for all avocado varieties. We are making the more recent version of the PRA available for public review and comment, as well as the revised version of the RMD that reflects this change.

Based on the findings of the revised PRA, we are proposing that commercial fresh avocado fruit may be imported into the continental United States from continental Ecuador subject to the conditions outlined in the June 2018 proposed rule, as well as additional conditions designed to safeguard against *Stenoma catenifer*. These additional conditions are:

- Avocados must be grown in pest free places of production for the avocado seed pest *Stenoma catenifer* that are established and maintained in accordance with international standards. APHIS must approve the survey protocol used by the National Plant Protection Organization (NPPO) of Ecuador to determine and maintain pest free status.
- If the avocados are grown in a municipality free of *Stenoma catenifer*, the municipality must be surveyed every 6 months (twice a year) for the pest. Representative areas of the municipality where there are avocado trees, including production sites and urban areas, must be sampled.
- If the avocados are grown in a municipality not completely free of *Stenoma catenifer*, the NPPO of Ecuador can certify individual places of production as pest free. The surveys for pest free places of production must include representative areas from all parts of each registered place of production and a buffer zone of 1 kilometer. The places of production and buffer zone must be surveyed monthly for *Stenoma catenifer* from 2 months before harvest until harvest is completed.

- If one or more *Stenoma catenifer* are detected during a survey or during any other monitoring or inspection activity, the place of production will be prohibited from exporting avocados to the continental United States until APHIS and the NPPO of Ecuador jointly agree that the risk has been mitigated.
- The NPPO of Ecuador must keep records of *Stenoma catenifer* detections for each place of production, and update the records each time the places of production are surveyed. The records must be maintained for at least 1 year and provided for APHIS' review, if requested.

These conditions are described in further detail in the revised RMD. The NPPO of Ecuador would also have to enter into an operational work plan with APHIS that details the daily procedures the NPPO will take to meet these and all conditions.

Comments on the proposed rule were required to be received on or before August 14, 2018. We are reopening the comment period on Docket No. APHIS-2016-0099 for an additional 30 days. This action will allow interested persons additional time to review the revised PRA and RMD, and prepare and submit comments.

Finally, we note that the proposed rule was issued prior to the October 15, 2018, effective date of a final rule² that revised the regulations in 7 CFR 319.56-4 by broadening an existing performance standard to provide for approval of all new fruits and vegetables for importation into the United States using a notice-based process. That final rule also specified that region- or commodity-specific phytosanitary requirements for fruits and vegetables would no longer be found in the regulations, but instead in APHIS' Fruits and Vegetables Import Requirements database (FAVIR). With those changes to the regulations, we will be unable to issue the final regulations as contemplated in our June 2018 proposed rule. Instead, following this reopened comment period, if we finalize this action, it will be through the issuance of a notification.

² To view the final rule, please follow the directions above for the Federal eRulemaking Portal under ADDRESSES, and enter APHIS-2010-0082 in the search field.

Authority: 7 U.S.C. 1633, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR
2.22, 2.80, and 371.3.

Done in Washington, DC, this 12th day of April 2021.

Mark Davidson

Acting Administrator, Animal and Plant Health Inspection Service.

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